What is the EPFO’s higher pension option?

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In news– The Employees’ Provident Fund Organisation (EPFO) has recently issued guidelines to allow a section of its older members to opt for higher pension under the Employees’ Pension Scheme (EPS).

What does the new EPFO circular say?

- The EPFO instructed its field officers to allow the option for higher contribution by:
- Employees and employers who had **contributed on salary exceeding the wage ceiling of Rs 5,000 or 6,500.**
- Those who **did not exercise the joint option** (by employer and employee) while being members of Employees’ Pension Scheme (EPS 95).
- Those who were **members prior to September 1, 2014** and continued to be a member on or after that date.
- Employees who had already contributed on higher wage but not exercised the option formally will be required to submit an application at the EPFO regional office. T
- The circular said that in case of the amount requiring adjustment from provident fund to pension fund, and any re-deposit to the fund, explicit consent of the employee will be given in the joint option form.
- In case of transfer of funds from exempted provident fund trust to pension fund of EPFO, an undertaking of the trustee shall be submitted.
- In case of employees of unexempted establishments, refund of requisite employer’s share of contribution, the same shall be deposited with interest at the rate declared under Para 60 of EPF Scheme, 1952, till the date of actual refund.

What does this mean for EPFO and members of EPS?

For EPFO:

- This will mean a **stream of sharply higher pension payouts**, when linked to actual basic salary rather than the Rs 15,000 ceiling.
- Experts said the pension scheme does not entail defined benefits but involves defined contribution, which could create strain on the finances of the retirement fund body in future.
- For instance, an employee may have worked, and contributed for pension for 10 years, but after superannuation at age 58, will get a pension until death, which could be a period far exceeding the contributory period of 10 years.
- The payouts could extend beyond the death of the member, with a provision for pension to the dependent family members as well.

For members and employers:

- This **would essentially imply higher annuity after retirement.**
- The choice for a higher pension would then involve **transferring of funds from the provident fund to the pension fund going back until September 2014**.
- In times of higher inflation, and with actual salaries having risen way beyond the pensionable salary cap of Rs 15,000, this would provide better social security cover for workers after retirement.
- Only a negligible percentage of EPFO members — with salaries higher than the Rs 15,000 a month pensionable salary cap — had earlier opted for contributions based on actual salaries; more employees are now expected to opt for the higher pension scheme.

Current pension structure-

- **The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 did not provide for a pension scheme.**
- **The EPS, administered by the EPFO, came into being in 1995.** The pension fund was to comprise a **deposit of 8.33% of the employers' contribution towards the PF corpus.**
- **Both employees and employers contribute 12% of the employee's basic salary**, dearness allowance and retaining allowance, if any, to the EPF.
- The employee's entire contribution goes to EPF, while the 12% contribution by the employer is split as 3.67% to EPF and 8.33% to EPS.
- **The Government of India contributes 1.16% for an employee's pension.** Employees do not contribute to the pension scheme.
- At the time of introduction of EPS, the maximum pensionable salary was Rs 5,000 per month.
- This was subsequently raised to Rs 6,500 and, from September 1, 2014, to Rs 15,000.
- The pension contribution currently is 8.33% of Rs 15,000, that is, Rs 1,250 — unless the employee and employer have opted to contribute at actual basic salary exceeding the pensionable salary.

Eligibility to get pension under the EPS-

- The EPS provides **employees with pension after the age of 58, if they have rendered at least 10 years of service and retired at age 58.** If a member leaves employment between ages 50 and 57, they can avail early (reduced) pension.
- **The monthly pension is computed according to this formula:** Monthly pension = pensionable salary x pensionable service / 70, based on a pro rata basis linked to maximum monthly pensionable salary of Rs 6,500 for pensionable service up to September 1, 2014, and Rs

15,000 thereafter.

- **Under the pre-amendment scheme, the pensionable salary was computed as the average of the salary drawn during the 12 months prior to exit from membership of the pension fund.**
- The 2014 amendments raised this to an average of 60 months prior to exit.

The 2014 amendments in EPS-

- The amendments of August 22, 2014 **raised the pensionable salary cap to Rs 15,000 a month from Rs 6,500,** and allowed members along with their employers to contribute 8.33% on their actual salaries (if it exceeded the cap) towards EPS.
- It gave all EPS members as on September 1, 2014 six months to opt for the amended scheme, extendable by another six months at the discretion of the Regional Provident Fund Commissioner.
- Members opting for pension linked to actual salaries exceeding the wage ceiling were required to contribute an additional 1.16% of their salary towards the pension fund.
- Those who did not exercise the option within the stipulated or extended period were deemed to have not opted for contribution over the pensionable salary cap and the extra contributions already made to the pension fund were to be diverted to the provident fund account of the member, along with interest.

The Supreme Court's November 2022 judgement-

- Fifty-four writ petitions were filed by employees from both exempt and unexempted establishments asking for the amendments to be struck down.
- The employees cited lack of information and awareness about the time window to opt for the amended pension scheme linked to higher pensionable salary.

- **A three-judge Bench of then Chief Justice of India U U Lalit and Justices Aniruddha Bose and Sudhanshu Dhulia upheld the 2014 amendments**, but extended the time to opt for the new scheme by four months.
- The operation of the amendment requiring members to make the 1.16% contribution was suspended by the court for six months.